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CHARLES ELMORE CROPLEY
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IN THE

Supreme Court of the United States

No. 103 October Term, 1949

ESTATE OF GILLIAT G. SCHROEDER, DECEASED, LOUISA R. SCHROEDER AND HELEN S. CROLL, EXECUTORS,
Petitioners

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

MOTION FOR STAY OF ISSUANCE OF MANDATE AND FOR LEAVE TO FILE PETITION FOR CLARIFICATION OF ORDER GRANTING WRIT OF CERTIORARI AND REMANDING THE CASE TO THE COURT OF APPEALS FOR THE SECOND CIRCUIT.

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1. The petitioners, Louisa R. Schroeder and Helen S. Croll, Executors of the Estate of Gilliat G. Schroeder, deceased, respectfully move the Court to issue an Order staying the issuance of the Mandate in this case, and granting the petitioners leave to file a Petition for clarification of this Court's Order of October 10, 1949, which granted a Writ of certiorari and remanded the case to the Court of Appeals for the Second Circuit for further consideration.

2. In support of the foregoing Motion petitioners respectfully bring to the attention of the Court the following matters:

(a) The Order of this Court entered on October 10, 1949, was as follows:

"PER CURIAM: The petition for writ of certiorari is granted. The judgment of the Court of Appeals is vacated and the case is remanded to that court

for further consideration in the light of T. D. 5741, 14 Fed. Reg. 5536, and, Commissioner v. Estate of Church, 335 U. S. 632, and Estate of Spiegel v. Commissioner, 335 U. S. 701."

(b) On October 25, 1949, the President of the United States signed the "Technical Changes Act of 1949," the effect of which is, in petitioners' view, to provide that neither *Estate of Church*, 335 U. S. 632, nor *Estate of Spiegel*, 335 U. S. 701, shall be applied to the estate of any decedent who died prior to October 7, 1949, as did the decedent in this case. (See Section 7 of Technical Changes Act of 1949, Public Law 378, H. R. 5268, 81st Congress, 1st Session, approved October 25, 1949).

(c) On October 31, 1949, during a discussion of a Motion in this case in the Court of Appeals for the Second Circuit, one of the judges of that Court, though not purporting to decide the point, informally expressed some doubt as to whether the Order of this Court authorized the Court of Appeals to consider the above mentioned Technical Changes Act of October 25, 1949. Accordingly, petitioners desire leave to file a Petition for clarification of the Order of this Court so as to insure that the Court of Appeals may in the course of its further consideration of the case do so in the light of the newly enacted Technical Changes Act as well as in the light of the cases and other authorities set forth in the Court's original Order.

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